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In re Application of	:	
WHITAKER	:	DECISION ON RENEWED
Serial No.: 10/018,316	:	
PCT No.: PCT/SE00/01302	:	PETITION UNDER
Int. Filing Date: 19 June 2000	:	
Priority Date: 24 June 1999	:	37 CFR 1.47(b)
Atty Docket No.: 0091-0207P	:	
For: SHAPE CONFORMING SURFACE	:	
COVERING	:	

This decision is in response to applicant's "Renewed Petition Under 37 CFR 1.47(b)" filed 10 April 2002 in the United States Patent and Trademark Office (USPTO).

### **BACKGROUND**

On 03 December 2002, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(b) to accept the application without the signature of inventor Derek Whitaker. Applicant was afforded two months to file any request for reconsideration and advised that the period for reply could be extended with a proper petition and payment of the extension of time fee.

On 03 March 2003, applicant responded with the present renewed petition accompanied by a petition for an one-month extension of time and payment of the extension of time fee. With the filing of the petition and payment of the extension fee the renewed petition is considered timely filed.

### **DISCUSSION**

As detailed in the decision mailed 03 December 2003, a petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(I); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the non-signing inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as an agent for the non-signing inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. Applicant previously satisfied items (1), (3), (4) and (5).

Regarding item (2) above, petitioner has provided a declaration from an individual with first-hand knowledge that Mr. Whitaker was present with a complete set of application papers prior to his refusal to execute the oath/declaration.

As to item (6), applicant has now provided a statement that such action is necessary to preserve the rights of the parties or to prevent irreparable damages.

It is noted that applicant was previously advised that the declaration filed 10 April 2002 was compliant. However, a closer review of the document finds this not to be the case. Specifically, the filing date for the international application is 19 June 2000; but it is listed on the filed declaration as 18 December 2001. In addition, the declaration does not provide the citizenship of the non-signing inventor.

As such, it is not possible to grant applicant's renewed petition at this time.

### **CONCLUSION**

For the reasons stated above, applicant's petition under 37 CFR 1.47(b) is **DISMISSED**.

If reconsideration of this decision is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. A proper response must include a compliant oath or declaration remedying the faults detailed above. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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